

AMENDED IN SENATE JUNE 30, 2003

AMENDED IN ASSEMBLY APRIL 24, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 901

Introduced by Assembly Member Jackson
(Principal coauthor: Senator Kuehl)

February 20, 2003

~~An act to amend Section 48003 of the Public Resources Code, relating to solid waste.~~ *An act to amend Sections 13159, 114815, 115070, and 115093 of, and to add Sections 114821, 114822, 114823, 115071, 115072, and 115156 to, the Health and Safety Code, relating to radioactive waste.*

LEGISLATIVE COUNSEL'S DIGEST

AB 901, as amended, Jackson. ~~Integrated Waste Management Fund~~ *Radioactive waste: high-level radioactive materials and spent nuclear fuel: transportation.*

(1) Existing law requires the State Fire Marshal, among other things, to develop a model plan or system for use by fire departments for the control of fires and the safety of firefighters where hazardous materials are involved, and to study the feasibility of establishing a depository of information on hazardous material characteristics.

This bill would require the State Fire Marshal to include, in that model plan and depository, high-level radioactive waste and spent nuclear fuel, as defined. The bill would additionally require the State Fire Marshal to create a committee with a specified membership to develop and oversee implementation of a statewide radiological

response and safety training program to train firefighters and local emergency medical service personnel. The bill would require the State Fire Marshal, by January 1, 2005, to submit a report to the Legislature identifying any equipment needed for responding to emergency situations involving high-level radioactive waste or spent nuclear fuel.

(2) Existing law requires the State Department of Health Services to adopt reasonable regulations that promote the safe transportation of radioactive materials, including the use of signs, the manner in giving notice of shipments, packaging and handling, and equipment and operations of the vehicle. Any violation of these regulations is a crime.

Existing law requires the Department of the California Highway Patrol to adopt regulations specifying the time that shipments may occur and the routes that are to be used in the transportation of cargoes of hazardous radioactive materials and requires carriers of these materials to provide advance notice prior to the transport of these materials.

This bill would define “high-level radioactive waste” and “spent nuclear fuel” for purposes of these provisions. The bill would require the State Department of Health Services, in consultation with, with of the Department of the California Highway Patrol and the State Fire Marshal, to include in the nuclear threat emergency response plan, information regarding the responsibilities of all state agencies relating to the transportation of high-level radioactive waste and spent nuclear fuel. The bill would require the State Department of Health Services to submit a report to the Legislature by July 1, 2005, concerning this information. The bill would require the Peace Officer and Standards Training Commission to develop a radiological response and safety training program for law enforcement officers along the designated routes. The bill would require the Department of the California Highway Patrol to adopt regulations to promote the safe transportation of high-level radioactive waste and spent nuclear fuel. The bill would require the Department of the California Highway Patrol to adopt regulations specifying the time at which shipments of these materials may occur and the routes to be used in the transportation of high-level radioactive waste and spent nuclear fuel.

The bill would require a shipper of these materials to participate in a tracking program and to provide the State Department of Health Services with proof and results of the testing of the casks used to transport those materials. The bill would require the manufacturer of the cask or the appropriate federal authority, if so authorized, to



conduct the full-scale physical cask testing. The bill would require these materials, when transported by vehicle, to be transported in convoys, except as specified, and would prohibit these materials from being transported by rail in mixed cargo shipments. The bill would require the person transporting these materials by vehicle to be escorted by the Department of the California Highway Patrol, if that department makes a specified determination, and would require a person transporting these materials by rail to be escorted by emergency response personnel, except as specified.

The bill would require a shipment of spent nuclear fuel or high-level radioactive waste for which a determination is made to be inspected by personnel designated as specified, and would require additional inspections, as specified. The bill would impose a state-mandated local program, as the failure to conduct those inspections would be a crime.

(3) Existing law requires any person who releases hazardous materials upon any highway to notify the Department of the California Highway Patrol and requires any person who deposits any material upon a highway to remove that material, and if the person fails to remove that material, the governmental agency responsible for the maintenance of the street or highway is authorized to collect the actual cost of the removal operations. Existing law also provides that the expenses of an emergency response necessary to protect the public from a threat to public health or safety by a release of hazardous substances are a charge against any person whose negligence causes the incident.

This bill would provide that if any state property is damaged or there is a discharge of high-level radioactive waste or spent nuclear fuel from an authorized shipping package or container, the state would be authorized to recover the costs incurred by the state in the reparation of that damage. The bill would require all carriers of these materials to provide proof of a bond or insurance in the amount of \$25,000,000, as specified.

(4) The bill would require the department, if it determines that the requirements added by the bill may be funded pursuant to the Nuclear Waste Policy Act, to implement those requirements only to the extent that those funds are provided.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.



This bill would provide that no reimbursement is required by this act for a specified reason.

~~The California Integrated Solid Waste Management Act of 1989 regulates the disposal of solid waste and provides for the California Integrated Waste Management and Recycling Board.~~

~~Existing law requires that all revenues received by the board for tipping fees be deposited into the Integrated Waste Management Account in the Integrated Waste Management Fund. Existing law limits the total revenues that the board may spend from the account during a fiscal year for administration, as specified.~~

~~This bill would delete an authorization for the 1989-90 fiscal year.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 48003 of the Public Resources Code is~~
2 ~~SECTION 1. Section 13159 of the Health and Safety Code is~~
3 ~~amended to read:~~

4 13159. The State Fire Marshal, with policy guidance and
5 advice from the State Board of Fire Services, shall have the
6 following responsibilities:

7 (a) To make fire service training and education programs,
8 including training and education in the use of heavy rescue
9 equipment, available on a voluntary basis to fire departments that
10 rely extensively on volunteers.

11 (b) Cooperate with the State Board of Fire Services in the
12 development of a minimum standards program for fire service
13 personnel and fire service instructors.

14 (c) Assist and cooperate with State Board of Fire Services
15 pursuant to Section ~~13142.4~~ 13159.8.

16 (d) Verify that minimum curriculum requirements, facilities,
17 and faculty standards for schools, seminars, or workshops
18 operated by or for the state for the specific purpose of training fire
19 service personnel are being met.

20 (e) Make or encourage studies of any aspect of fire service
21 training and education.

22 (f) Determine the need for and recommend locations of
23 regional training sites.

(g) *Create a committee, including representation from the California State Firefighters Association Hazardous Materials Committee, the California Firefighter Joint Apprenticeship Program, the California Professional Firefighters' Health and Safety Committee, and the Office of Emergency Services, to develop and oversee implementation of a statewide radiological response and safety training program for the purpose of training personnel who will train firefighters and emergency medical services personnel along routes designated for high-level radioactive waste or spent nuclear fuel shipments.*

(1) *The training of firefighters and emergency medical service responders shall be administered by fire and emergency medical service agencies designated and coordinated through the State Fire Marshal.*

(2) *On or before July 1, 2004, the Department of Forestry and Fire Prevention shall implement the firefighter and emergency medical service radiological response and safety training program as part of the California Fire Service Training Program.*

(3) *The State Fire Marshal shall include, as part of the program, annual radiological response and safety refresher training for firefighters and emergency medical services personnel along those designated routes.*

(h) *Develop a model plan or system for use by fire departments for the control of fires and the safety of firefighters where hazardous materials, including, but not limited to, high-level radioactive waste or spent nuclear fuel, are involved.*

~~(h)~~

(i) *Study the feasibility of establishing within the office of the State Fire Marshal, a depository of information on hazardous material characteristics, including, but not limited to, high-level radioactive waste or spent nuclear fuel, for use by local fire departments and other entities that respond to emergencies.*

(j) (1) *On or before January 1, 2005, submit a report to the Legislature identifying any equipment needed for responding to emergency situations involving high-level radioactive waste or spent nuclear fuel.*

(2) *For purposes of this section, high-level radioactive waste or spent nuclear fuel have the same meaning as defined in Section 114815.*

1 SEC. 2. Section 114815 of the Health and Safety Code is
2 amended to read:

3 114815. For the purposes of this article the term “radioactive
4 materials” shall include following definitions apply:

5 (a) “High-level radioactive waste” and “spent nuclear fuel”
6 have the same meanings as defined in Section 10101 of Title 42 of
7 the United States Code.

8 (b) “Radioactive materials” includes any material or
9 combination of materials that spontaneously emits ionizing
10 radiation.

11 SEC. 3. Section 114821 is added to the Health and Safety
12 Code, to read:

13 114821. (a) The department, in consultation with the
14 Department of the California Highway Patrol and the State Fire
15 Marshal, shall include, in the nuclear threat emergency response
16 plan, information regarding the responsibilities of all state
17 agencies relating to the transportation of high-level radioactive
18 waste and spent nuclear fuel. The responsibilities shall comply
19 with Section 2454 of the Vehicle Code.

20 (b) The Peace Officer and Standards Training Commission
21 shall develop a radiological response and safety training program
22 for local law enforcement officers along the designated high-level
23 radioactive waste and spent nuclear fuel shipping routes.

24 (1) The training for local law enforcement officers in the
25 nuclear threat emergency response plan shall include annual
26 radiological response and safety refresher training.

27 (2) The Peace Officer and Standards Training Commission
28 shall evaluate the training program at least once every two years.

29 (c) In addition to the regulations adopted pursuant to
30 subdivision (d) of Section 114820, the Department of the
31 California Highway Patrol shall adopt regulations to promote the
32 safe transportation of high-level radioactive waste and spent
33 nuclear fuel, in compliance with the review and compatibility
34 requirements of Section 114765.

35 (d) In addition to the provisions specified in Section 33000 of
36 the Vehicle Code, the Department of the California Highway
37 Patrol shall adopt regulations in compliance with the review and
38 compatibility requirements of Section 114765 specifying the time
39 at which shipments may occur and the routes that are to be used

1 *in the transportation of cargoes of high-level radioactive waste*
2 *and spent nuclear fuel.*

3 *(e) A shipper of high-level radioactive waste and spent nuclear*
4 *fuel shall participate in a real time, continuous tracking program,*
5 *including, but not limited to, the TRANSCOM system of the*
6 *Department of Energy, commencing on or before July 1, 2004, in*
7 *order to facilitate a more efficient response to an emergency*
8 *situation.*

9 *(f) A shipper of high-level radioactive waste and spent nuclear*
10 *fuel shall provide the department with proof and results of at least*
11 *one example of full-scale physical testing of those casks to be used*
12 *to transport high-level radioactive materials and spent nuclear*
13 *fuel. Full-scale physical testing shall include, but not be limited to,*
14 *an assessment of the safety of the casks as well as of the*
15 *vulnerability of the casks to terrorist attack. The appropriate*
16 *federal agency, if so authorized, shall conduct the full-scale*
17 *physical cask testing and provide the results of that testing to the*
18 *shipper. If the appropriate federal agency does not conduct that*
19 *testing, the manufacturer shall do so and provide the results to the*
20 *shipper. The test results shall be evaluated by the department based*
21 *upon the standards established by the Nuclear Regulatory*
22 *Commission in accordance with Part 71 (commencing with*
23 *Section 71.0) of Chapter 1 of Title 10 of the Code of Federal*
24 *Regulations.*

25 *(g) The department shall submit a report to the Legislature, on*
26 *or before July 1, 2005, on the information included in the nuclear*
27 *threat emergency response plan specified in subdivision (a),*
28 *together with recommendations for any necessary changes in*
29 *transportation regulations.*

30 *SEC. 4. Section 114822 is added to the Health and Safety*
31 *Code, to read:*

32 *114822. (a) A person transporting spent nuclear fuel or*
33 *high-level radioactive waste by vehicle shall transport that fuel or*
34 *waste in convoys of cask-bearing vehicles, unless the Department*
35 *of the California Highway Patrol, for reasonable cause and in the*
36 *interest of safety, waives that requirement in writing.*

37 *(b) The Type B packaging offered for on-highway shipments of*
38 *high-level radioactive waste or spent nuclear fuel shall meet the*
39 *Class 7 materials general design requirements and specific design*
40 *and testing requirements as provided in Part 173 (commencing*

1 with Section 173.2) of Subchapter C of Chapter 1 of of Title 49 of
2 the Code of Federal Regulations.

3 (c) The Type B packaging described shall be approved by the
4 United States Nuclear Regulatory Commission in accordance with
5 Title 71 (commencing with Section 71.0) of Chapter 1 of Title 10
6 of the Code of Federal Regulations.

7 (d) A person transporting spent nuclear fuel or high-level
8 radioactive waste by railroad may not transport that fuel or waste
9 with mixed cargo shipments.

10 SEC. 5. Section 114823 is added to the Health and Safety
11 Code, to read:

12 114823. (a) A person transporting spent nuclear fuel or
13 high-level radioactive waste by vehicle shall comply with the
14 notification requirements set forth in subdivision (e) of Section
15 33002 of the Vehicle Code.

16 (b) The Department of the California Highway Patrol shall
17 determine, based upon safety considerations, whether it is
18 necessary for a shipment of spent nuclear fuel or high-level
19 radioactive waste to be escorted.

20 (c) If the Department of the California Highway Patrol
21 determines, pursuant to subdivision (b), that an escort is
22 warranted, the department shall coordinate and conduct the escort
23 as described in Section 33000 of the Vehicle Code.

24 (d) A person transporting spent nuclear fuel or high-level
25 radioactive waste by rail shall be escorted by emergency response
26 personnel provided by the shipper or carrier, unless the
27 department, for reasonable cause and in the interest of safety,
28 waives that requirement in writing. The emergency response
29 personnel shall also include at least one individual having security
30 training pursuant to the safeguards regulations adopted by the
31 Nuclear Regulatory Commission in Section 73.37 of Title 10 of the
32 Code of Federal Regulations, or as those regulations may be
33 further amended.

34 SEC. 6. Section 115070 of the Health and Safety Code is
35 amended to read:

36 115070. ~~The~~ Except as provided in Section 115071, the
37 frequency of inspections of radioactive materials shall be based on
38 priorities established by the United States Nuclear Regulatory
39 Commission.

1 SEC. 7. Section 115071 is added to the Health and Safety
2 Code, to read:

3 115071. (a) The Department of the California Highway
4 Patrol shall determine whether it is necessary to inspect a
5 shipment of high-level radioactive waste or spent nuclear fuel, as
6 defined in subdivision (a) of Section 114815, entering or leaving
7 the state by vehicle on the public highways. The inspection shall
8 take place at the point of entry weighing station nearest the point
9 at which the shipment enters the state.

10 (b) The Department of the California Highway Patrol shall
11 designate the inspection personnel.

12 (c) A vehicle carrying a shipment originating within the state
13 shall be inspected at the point of origin or at an inspection facility
14 designated by the department.

15 (d) All inspections required by this section shall be conducted
16 to assess both the mechanics of the vehicle of transport and the
17 radiological safety of the casks.

18 (e) All inspections required by this section shall require the
19 vehicle to conform to all applicable federal motor carrier safety
20 regulations and all applicable federal hazardous materials
21 regulations, and if the United States Department of Energy adopts
22 the Enhanced North American Standard Inspection for
23 Transportation of Radioactive Materials, to the requirements of
24 those standards.

25 (f) This section does not apply to the transportation, delivery,
26 or acceptance for delivery of radioactive materials that occurs
27 solely within the authorized location of use of a person authorized
28 to use, possess, transport, deliver, or store radioactive materials by
29 the department or by the United States Nuclear Regulatory
30 Commission.

31 SEC. 8. Section 115072 is added to the Health and Safety
32 Code, to read:

33 115072. (a) The department shall determine whether it is
34 necessary to inspect a shipment of high-level radioactive waste or
35 spent nuclear fuel, as defined in subdivision (a) of Section 114815,
36 entering or leaving the state by railroad.

37 (b) The department shall designate the inspection personnel.

38 (c) Rail shipments originating within the state shall be
39 inspected at the point of origin by personnel designated by the
40 department.

1 (d) All inspections required by this section shall be conducted
2 to assess both the mechanics of the railcars used in transport and
3 the radiological safety of the Type B packaging pursuant to Part
4 71 (commencing with Section 71.0) of Chapter 1 of Title 10 of the
5 Code of Federal Regulations.

6 (e) An inspector from the safety division of the Public Utilities
7 Commission, as authorized in Section 309.7 of the Public Utilities
8 Code, shall inspect the railroad tracks of the designated routes
9 within 24 hours prior to the transport of high-level radioactive
10 materials or spent nuclear fuel.

11 (f) This section does not apply to the transportation, delivery,
12 or acceptance for delivery of radioactive materials that occurs
13 solely within the authorized location of use of a person authorized
14 to use, possess, transport, deliver, or store radioactive materials by
15 the department or by the United States Nuclear Regulatory
16 Commission.

17 SEC. 9. Section 115093 of the Health and Safety Code is
18 amended to read:

19 115093. (a) The department shall require, as a condition of
20 issuing a license to receive, possess, or transfer radioactive
21 materials, or devices or equipment utilizing radioactive materials,
22 that the licensee take corrective action with regard to all
23 contamination that results from the handling, use, storage, or
24 transportation of radioactive materials at the licensee's facility
25 regardless of when the contamination commenced at the facility.

26 (b) Any corrective action required pursuant to this section shall
27 require that corrective action be taken beyond the facility
28 boundary if necessary to protect human health and safety or the
29 environment, unless the licensee demonstrates to the satisfaction
30 of the department that, despite the licensee's best efforts, the
31 licensee is unable to obtain the necessary permission to undertake
32 the corrective action.

33 (c) When corrective action cannot be completed prior to
34 issuance of the license, the license shall contain schedules of
35 compliance for corrective action and assurances of financial
36 responsibility for completing the corrective action.

37 (d) (1) If any state property is damaged, if there is a discharge
38 of high-level radioactive waste or spent nuclear fuel from an
39 authorized shipping package or container, or if there is a threat of
40 this discharge, that results from the transportation, storage,

holding, detention, delivery for transportation, or acceptance for transportation of high-level radioactive waste or spent nuclear fuel in this state, the state may recover from a shipper, carrier, bailor, bailee, or any other person responsible for that storage, transportation, holding, detention, delivery for transportation, or acceptance for transportation, all costs incurred by the state in the reparation of the damage, and all costs incurred, in the prevention, abatement, or removal of that high-level radioactive waste or spent nuclear fuel, including reasonable attorney's fees incurred with respect to recovery.

(2) For purposes of this subdivision, "high-level radioactive waste or spent nuclear fuel" has the same meaning as defined in subdivision (a) of Section 114815.

SEC. 10. Section 115156 is added to the Health and Safety Code, to read:

115156. (a) Notwithstanding any other provision of law, a bond or proof of indemnity insurance in the amount of twenty-five million dollars (\$25,000,000) shall be required for all intrastate and interstate carriers of high-level radioactive waste or spent nuclear fuel, as defined in subdivision (a) of Section 114815, subject to this chapter. Proof of the bond or indemnity insurance shall be provided at the time of a inspection conducted pursuant to Section 115071. The bond or indemnity insurance shall serve as collateral against liability for the damages for injury or loss of life suffered by a person, or the damages to property, as a result of the transportation of high-level radioactive waste or spent nuclear fuel pursuant to this chapter.

(b) The requirements of subdivision (a) may be met by the carrier obtaining a bond or indemnity insurance in an amount that is greater than the minimum requirements of subdivision (a), as provided by that carrier's insurance.

SEC. 11. If the State Department of Health Services or the Department of the California Highway Patrol determines that any requirement added by this act may be funded pursuant to subsection (c) of Section 10175 of Title 42 of the United States Code, as provided in the Nuclear Waste Policy Act (42 U.S.C., Sec. 10101 and following), the State Department of Health Services or the Department of the California Highway Patrol shall implement those requirements only to the extent that the federal funds are provided.

1 *SEC. 12. No reimbursement is required by this act pursuant*
2 *to Section 6 of Article XIII B of the California Constitution*
3 *because the only costs that may be incurred by a local agency or*
4 *school district will be incurred because this act creates a new crime*
5 *or infraction, eliminates a crime or infraction, or changes the*
6 *penalty for a crime or infraction, within the meaning of Section*
7 *17556 of the Government Code, or changes the definition of a*
8 *crime within the meaning of Section 6 of Article XIII B of the*
9 *California Constitution.*

10 ~~amended to read:~~

11 ~~48003. The board may not spend more than 1/2 percent of the~~
12 ~~total revenues deposited or anticipated to be deposited in the~~
13 ~~account during a fiscal year, for the administration of this chapter~~
14 ~~during that fiscal year.~~

